

CHAPTER 166**MORTGAGE FORECLOSURE AND
INSTALLMENT CONTRACT PROTECTIONS
FOR NATIONAL GUARD AND ARMED FORCES MEMBERS***H.F. 706*

AN ACT relating to and publicizing mortgage foreclosure and real estate obligation protections for members of the national guard, and the reserve or regular component of the armed forces of the United States in active duty service, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 29A.102, subsection 3, Code 2009, is amended to read as follows:

3. A person who knowingly repossesses property which is the subject of this section, other than as provided in subsection 1, commits a ~~simple~~ serious misdemeanor.

Sec. 2. Section 29A.103, subsection 4, Code 2009, is amended to read as follows:

4. A person who knowingly forecloses on property that is the subject of this section, other than as provided in subsection 1, commits a ~~simple~~ serious misdemeanor.

Sec. 3. NEW SECTION. 654.17B MILITARY FORECLOSURE PROTECTION — NOTICE.

1. Except as provided under chapter 29A, or the federal Servicemembers Civil Relief Act of 2003, 50 U.S.C. app. 532 and 533, a creditor shall not initiate a proceeding to enforce an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, against a borrower, or a borrower's dependents, who is a member of the national guard or a member of the reserve or regular component of the armed forces of the United States in active duty service. Enforcement of an obligation shall not be permitted under the following circumstances:

a. The borrower is a member of the national guard and has been afforded protection under the Iowa national guard civil relief provisions contained in chapter 29A, subchapter VI. A creditor who enforces an obligation in violation of chapter 29A, subchapter VI, is subject to applicable penalty provisions contained in sections 29A.102 and 29A.103.

b. The borrower is a member of the reserve or regular component of the armed forces of the United States in active duty service and has been afforded protection under the federal Servicemembers Civil Relief Act of 2003, 50 U.S.C. app 532 and 533. A creditor who enforces an obligation in violation of the federal Act is subject to applicable penalty provisions contained in the federal Act.

2. The department of veterans affairs and the department of commerce shall coordinate to develop a procedure to inform or notify members of the national guard, reserve, or regular component of the armed forces of the United States, and financial institutions as defined in section 12C.1, of the protections referenced in subsection 1. The notification procedure shall include, at a minimum, posting the information on an official internet site maintained by each department.

Approved May 26, 2009

CHAPTER 167**CONSUMER FRAUD — PRIVATE RIGHT OF ACTION***H.F. 712*

AN ACT relating to a private right of action for certain consumer fraud violations and including an applicability provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 714H.1 TITLE.

This chapter shall be known and may be cited as the “Private Right of Action for Consumer Frauds Act”.

Sec. 2. NEW SECTION. 714H.2 DEFINITIONS.

1. “Actual damages” means all compensatory damages proximately caused by the prohibited practice or act that are reasonably ascertainable in amount. “Actual damages” does not include damages for bodily injury, pain and suffering, mental distress, or loss of consortium, loss of life, or loss of enjoyment of life.
2. “Advertisement” means the same as defined in section 714.16.
3. “Consumer” means a natural person or the person’s legal representative.
4. “Consumer merchandise” means merchandise offered for sale or lease, or sold or leased, primarily for personal, family, or household purposes.
5. “Deception” means an act or practice that is likely to mislead a substantial number of consumers as to a material fact or facts.
6. “Merchandise” means the same as defined in section 714.16.
7. “Person” means the same as defined in section 714.16.
8. “Sale” means any sale or offer for sale of consumer merchandise for cash or credit.
9. “Unfair practice” means the same as defined in section 714.16.

Sec. 3. NEW SECTION. 714H.3 PROHIBITED PRACTICES AND ACTS.

1. A person shall not engage in a practice or act the person knows or reasonably should know is an unfair practice, deception, fraud, false pretense, or false promise, or the misrepresentation, concealment, suppression, or omission of a material fact, with the intent that others rely upon the unfair practice, deception, fraud, false pretense, false promise, misrepresentation, concealment, suppression, or omission in connection with the advertisement, sale, or lease of consumer merchandise, or the solicitation of contributions for charitable purposes. For the purposes of this chapter, a claimant alleging an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation must prove that the prohibited practice related to a material fact or facts. “Solicitations of contributions for charitable purposes” does not include solicitations made on behalf of a political organization as defined in section 13C.1, solicitations made on behalf of a religious organization as defined in section 13C.1, solicitations made on behalf of a state, regionally, or nationally accredited college or university, or solicitations made on behalf of a nonprofit foundation benefiting a state, regionally, or nationally accredited college or university subject to section 509(a)(1) or 509(a)(3) of the Internal Revenue Code of 1986.
2. A person shall not engage in any practice or act that is in violation of any of the following:
 - a. Section 321.69.
 - b. Chapter 516D.
 - c. Section 516E.5, 516E.9, or 516E.10.
 - d. Chapter 555A.
 - e. Section 714.16, subsection 2, paragraphs “b” through “n”.
 - f. Chapter 714A.